

## REMARKS

This amendment is accompanied by a request for continued examination (RCE) pursuant to 37 CFR 1.114, together with the applicable large entity fee

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### *Rejections Under 35 U.S.C. § 103*

The examiner has rejected claims 1, 2, 4-12, and 14-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,451,187 (Massey) in view of U.S. Patent No. 6,761,016 (Soleri). The examiner has also rejected claims 3 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Massey in view of U.S. Patent No. 5,460,844 (Gaylor).

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The examiner has indicated that that the action of the various mechanisms of the Massey and Soleri patents are believed to be continuous in the same manner as the mechanisms recited in the claims since in both instances the mechanisms reciprocate while continuously performing an operation. The examiner stated that “[t]he claimed language of ‘continuously making pouches’ or an operation ‘without interrupting flow through the apparatus’ can be read on the operation of a machine without being shut off even though various mechanisms move in an intermittent, reciprocating, manner. In this sense, both the references to Massey and Soleri, as applicant’s machine, comprise continuous, uninterrupted operations.”

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It is apparent from this passage that the examiner reads “continuous” operation of the claimed invention to mean that the overall machine is not “shut off.” However, it is apparent from the specification that the present invention is directed toward machines, methods and apparatus in which there is no stoppage in the movement of the film as it

travels along a path through a machine or apparatus, or in a method. By contrast, in both Massey and Soleri the film stops during every cycle.

As set forth in the previous response, Massey describes a pause in the flow of film during each cycle (a "dwell") as the reciprocating jaw unit 14 travels from the bottom of the down stroke to the top of the upstroke. "During the upstroke film brake 20 remains closed on the film." (Col. 5, lines 35-36.) The brake 20 of Massey does not reciprocate, but holds the film in a stopped position during every cycle as the reciprocating unit 14 travels upward, waiting for the next cycle. "When . . . the jaw unit 14 has reached the top of its upstroke, the film brake 20 opens by actuation of the fluid motor 83 and releases the film. The machine is then ready for a new cycle . . ." (Col. 5, lines 46-50.)

Similarly, Soleri openly refers to a machine that is "*semi-continuous*," having an acknowledged "dwell" time for the longitudinal side sealers. The specification in Soleri states that it is "not a 'true' continuous-motion machine because of the design of the multi-jaw traveling rotary cross seal system; which system pulls the film and pouches being made through the machine. There is an interruption in the movement of the film to allow the cross seals to return to their start position and the next set of cross-seal jaws to make contact with the film." (Col. 3, lines 39-46).

In the present invention, the flow of the film is not stopped or interrupted providing a continuous output and higher production volume. For clarification, independent claims 1, 9 and 17 have been modified to refer to the movement or flow of the film as not being stopped or interrupted. Antecedent basis for these amendments is found throughout the specification, including at page 5, lines 16-18; page 6, lines 16-19;

page 7, lines 4-6; page 8, lines 22-23; page 10, lines 3-5; page 16, lines 8-9; page 18, lines 14-16; page 20, lines 1-3; and page 23, lines 5-7. In addition, new claim 21 has been added.

A total of \$1,040 in fees is submitted herewith including the large entity fee of \$790 for the RCE, the large entity fee of \$200 for one independent claim in excess of three, and the large entity fee of \$50 for one claim in excess of 20. The Office is authorized to charge any additional fees required by this paper, or to apply any refund to deposit account number 502429.

### *Conclusion*

In view of the above, it is submitted that all claims are in condition for allowance. Reconsideration of the rejections is requested as discussed above. Allowance of all pending claims at an early date is solicited.

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Respectfully Submitted,

By



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